



Reprinted
March 25, 2005

ENGROSSED
SENATE BILL No. 304

DIGEST OF SB 304 (Updated March 24, 2005 2:30 pm - DI 102)

Citations Affected: IC 20-12; noncode.

Synopsis: National Guard active duty benefits. Exempts spouses and children of National Guard members who are killed on state active duty from payment of tuition and mandatory fees at a state educational institution. Provides that a determination of an individual's eligibility for the tuition exemption is vested exclusively with the Indiana military (Continued next page)

Effective: Upon passage; July 1, 2005.

**Wyss, Craycraft, Meeks, Merritt, Rogers,
Server, Sipes, Gard, Lutz L, Dillon, Heinold,
Hershman, Young R Michael, Skinner, Paul,
Alting, Antich-Carr, Bowser, Bray, Breaux,
Brodén, Clark, Drozda, Ford, Harrison, Howard,
Hume, Jackman, Kenley, Kruse, Lanane,
Landske, Lawson C, Lewis, Long, Lubbers,
Miller, Mishler, Mrvan, Nugent, Riegsecker,
Simpson, Smith S, Steele, Waltz, Waterman,
Weatherwax, Young R, Zakas**
(HOUSE SPONSORS — ALDERMAN, KUZMAN)

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January 6, 2005, read first time and referred to Committee on Homeland Security, Utilities, and Public Policy.
January 11, 2005, reported favorably — Do Pass.
January 24, 2005, read second time, call withdrawn.
January 25, 2005, reread second time, amended, ordered engrossed.
January 26, 2005, engrossed.
January 27, 2005, read third time, passed. Yeas 47, nays 0.
HOUSE ACTION
March 7, 2005, read first time and referred to Committee on Public Policy and Veterans Affairs.
March 21, 2005, amended, reported — Do Pass.
March 24, 2005, read second time, amended, ordered engrossed.

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Digest Continued

department. Makes the knowing or intentional submission of a false or misleading application or statement to obtain the tuition exemption a Class A misdemeanor. Provides that income earned by a member of the National Guard or any reserve component of the National Guard or armed forces while deployed overseas is exempt from consideration as income in determining eligibility for the Frank O'Bannon grant program administered by the state student assistance commission. Waives the application deadline established by state student assistance commission to apply for or renew a tuition scholarship awarded under the National Guard tuition supplement program, if a person is serving on active duty on January 1, and establishes the application deadline of 30 days before the first day of a semester or term of the state educational institution in which the person is enrolled.

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Reprinted
March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 304

A BILL FOR AN ACT to amend the Indiana Code concerning military and veterans' affairs.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-12-19.7 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]:
4 **Chapter 19.7. Tuition Exemption for Children and Spouses of**
5 **National Guard Members**
6 **Sec. 1. As used in this chapter, "state educational institution"**
7 **has the meaning set forth in IC 20-12-0.5-1.**
8 **Sec. 2. (a) An individual:**
9 (1) **whose father, mother or spouse:**
10 (A) **was a member of the Indiana National Guard; and**
11 (B) **suffered a service connected death while serving on**
12 **state active duty (as described in IC 10-16-7-7);**
13 (2) **who is eligible to pay the resident tuition rate (as**
14 **determined by the institution) at the state educational**
15 **institution in which the individual is enrolled or will enroll;**
16 **and**
17 (3) **who possesses the requisite academic qualifications;**

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1 is exempt from the payment of tuition and mandatory fees for
2 instruction at the state educational institution in which the
3 individual is enrolled or will enroll.

4 (b) An individual may receive the tuition exemption described
5 in subsection (a) for all semester credit hours in which the
6 individual enrolls up to a maximum of one hundred twenty-four
7 (124) semester credit hours.

8 (c) An individual qualifying for or receiving the tuition
9 exemption described in subsection (a) is entitled to enter, remain,
10 and receive instruction at a state educational institution under the
11 same conditions, qualifications, and regulations that apply to:

- 12 (1) applicants for admission to; or
 - 13 (2) students enrolled in;
- 14 the state educational institution who do not qualify for or receive
15 the tuition exemption.

16 (d) For purposes of this section, the commission for higher
17 education established by IC 20-12-0.5-2 shall define the mandatory
18 fees in consultation with the state student assistance commission
19 established by IC 20-12-21-4.

20 Sec. 3. If an individual who:

- 21 (1) qualifies for or is receiving the tuition exemption under
- 22 section 2 of this chapter; and
- 23 (2) receives other financial assistance specifically designated
- 24 for tuition and mandatory fees at the state educational
- 25 institution in which the individual is enrolled or will enroll;

26 the state educational institution shall deduct the amount of the
27 financial assistance specifically designated for tuition and
28 mandatory fees from the amount of the tuition exemption under
29 section 2 of this chapter.

30 Sec. 4. If an individual who:

- 31 (1) qualifies for or is receiving the tuition exemption under
- 32 section 2 of this chapter; and
- 33 (2) earns or is awarded a cash scholarship from any source
- 34 that is paid or payable to the state education institution in
- 35 which the individual is enrolled or will enroll;

36 the state educational institution shall credit the amount of the cash
37 scholarship to the individual for the payment of incidental expenses
38 incurred by the individual in attending the state educational
39 institution, with the balance, if any, of the award, if the terms of the
40 scholarship permit, paid to the individual.

41 Sec. 5. (a) The determination as to whether an individual is
42 eligible for the tuition exemption authorized by this chapter is

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1 vested exclusively with the military department established by
2 IC 10-16-2-1.

3 (b) An applicant for the tuition exemption shall make a written
4 request to the adjutant general for a determination of the
5 individual's eligibility.

6 (c) In response to each request described in subsection (b), the
7 adjutant general shall make a written determination of the
8 applicant's eligibility.

9 (d) An applicant may appeal an adverse determination in
10 writing to the military department not more than fifteen (15)
11 business days after the date the applicant receives the
12 determination under subsection (c).

13 (e) The military department shall issue a final order not more
14 than fifteen (15) business days after the department receives a
15 written appeal under subsection (d).

16 **Sec. 6. A person who knowingly or intentionally:**

17 (1) submits a false or misleading application or another
18 document; or

19 (2) makes a false or misleading statement;

20 **to obtain a benefit under this chapter commits a Class A**
21 **misdemeanor.**

22 SECTION 2. IC 20-12-21-5.1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) In addition
24 to the duties described in section 5(a) of this chapter, the commission
25 shall do the following:

26 (1) Prepare and supervise the issuance of public information
27 concerning all of the commission's programs.

28 (2) Prescribe the form and regulate the submission of applications
29 for all of the commission's programs.

30 (3) Determine the amounts of grants and scholarships.

31 (4) Determine eligibility for grants and scholarships.

32 (5) Receive federal funds made available to the commission for
33 awards, grants, and scholarships, and disburse these funds in the
34 manner prescribed by federal law.

35 (b) In addition to the powers described in section 5(b) of this
36 chapter, the commission may do the following:

37 (1) Accept gifts, grants, devises, or bequests for the purpose of
38 providing grants, awards, scholarships, loans, or other forms of
39 financial aid to students attending approved institutions of higher
40 learning.

41 (2) Enter into contracts, subject to IC 4-13-2, that the commission
42 determines are necessary to carry out the commission's functions.

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1 (3) Provide administrative or technical assistance to other
 2 governmental or nongovernmental entities if the provision of this
 3 assistance will increase the number and value of grants, awards,
 4 scholarships, or loans available to students attending approved
 5 institutions of higher learning.

6 (c) When the commission receives an offer of a gift, grant, devise,
 7 or bequest under subsection (b)(1), the commission may accept
 8 stipulations on the use of the donated funds. In this case, sections 7(d)
 9 and 17 of this chapter do not apply. Before accepting a gift, grant,
 10 devise, or bequest, the commission shall determine that the purposes
 11 for which a donor proposes to provide funds are:

- 12 (1) lawful;
 13 (2) in the state's best interests; and
 14 (3) generally consistent with the commission's programs and
 15 purposes.

16 Whenever the commission agrees to stipulations on the use of donated
 17 funds under this subsection, the commission and the donor shall,
 18 subject to approval by the state budget agency and the governor or the
 19 governor's designee, execute an agreement.

20 (d) Whenever the commission agrees to provide administrative or
 21 technical assistance under subsection (b)(3), the commission and the
 22 party to whom the assistance is to be provided shall execute an
 23 agreement specifying:

- 24 (1) the assistance that is to be provided; and
 25 (2) the charges, if any, that are to be assessed by the commission
 26 for providing this assistance.

27 The commission may waive charges for administrative or technical
 28 assistance under this subsection if the commission determines that a
 29 waiver is in the best interest of the state. Agreements to provide
 30 assistance under this subsection must be approved by the budget
 31 agency and the governor or the governor's designee.

32 (e) The commission shall exercise its functions without regard to an
 33 applicant's race, creed, sex, color, national origin, or ancestry.

34 **(f) This subsection applies to a person called to active duty after**
 35 **September 11, 2001. As used in this subsection, "active duty"**
 36 **means full-time service in:**

- 37 **(1) the national guard (as defined in IC 10-16-1-13); or**
 38 **(2) any reserve component of the:**
 39 **(A) Indiana national guard; or**
 40 **(B) armed forces;**

41 **that exceeds thirty (30) consecutive days in a calendar year. When**
 42 **determining financial eligibility under subsection (a)(4) for a Frank**

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1 **O'Bannon grant, which includes grants formerly designated as the**
 2 **higher education award and the freedom of choice award, the**
 3 **commission may not consider any salary for service on active duty**
 4 **that is received by a member of the national guard who is called to**
 5 **active duty.**

6 SECTION 3. IC 20-12-74-0.5 IS ADDED TO THE INDIANA
 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter,**
 9 **"active duty" means full-time service in the national guard (as**
 10 **defined in IC 10-16-1-13) that exceeds thirty (30) consecutive days**
 11 **in a calendar year.**

12 SECTION 4. IC 20-12-74-7 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a)** Money in the
 14 national guard tuition supplement program fund shall be used to
 15 provide annual tuition scholarships to scholarship applicants who
 16 qualify under this chapter in an amount that is equal to one (1) of the
 17 following amounts:

18 (1) If the scholarship applicant does not receive other financial
 19 assistance specifically designated for tuition and mandatory fees,
 20 the amount equal to a full tuition scholarship to attend the state
 21 educational institution.

22 (2) If the scholarship applicant receives other financial assistance
 23 specifically designated for tuition and mandatory fees, the
 24 amount:

25 (A) equal to the balance required to attend the state
 26 educational institution; and

27 (B) not to exceed the amount described in subdivision (1).

28 (b) Each tuition scholarship awarded under this chapter:

29 (1) may be renewed under this chapter for a total scholarship
 30 award that does not exceed the equivalent of eight (8) semesters;
 31 and

32 (2) that is renewable under this chapter is subject to other
 33 eligibility criteria as established by the commission, **except as**
 34 **provided in section 7.5 of this chapter.**

35 SECTION 5. IC 20-12-74-7.5 IS ADDED TO THE INDIANA
 36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) This section applies to**
 38 **a member of the national guard for a calendar year in which the**
 39 **individual is serving on active duty on January 1.**

40 (b) **Notwithstanding any other state law, the application**
 41 **deadline (as defined in 585 IAC 1-9-1) for the award or renewal of**
 42 **a tuition scholarship under this chapter is waived for a calendar**

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1 year in which a person is serving on active duty on January 1.
 2 (c) The application deadline for the award or renewal of a
 3 tuition scholarship under this chapter for a person described in
 4 subsection (b) is thirty (30) days before the first day of a semester
 5 or term of the state educational institution in which the person is
 6 enrolled.

7 SECTION 6. [EFFECTIVE JULY 1, 2005] IC 20-12-19.7, as added
 8 by this act, applies to all individuals whose father, mother or
 9 spouse:

- 10 (1) was a member of the Indiana National Guard; and
- 11 (2) suffered a service connected death while serving on state
- 12 active duty (as described in IC 10-16-7-7);

13 whether the father's, mother's or spouse's service connected death
 14 occurred before, on, or after July 1, 2005.

15 SECTION 7. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senators Merritt, Rogers, Server, Sipes, Gard, Lutz, Dillon, Heinold and Hershman be added as coauthors of Senate Bill 304.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Senate Bill No. 304, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 304 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Young R Michael be added as coauthor of Senate Bill 304.

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SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Senate Bill 304.

WYSS

SENATE MOTION

Madam President: I move that Senator Paul be added as coauthor of Senate Bill 304.

WYSS

SENATE MOTION

Madam President: I move that Senate Bill 304 be amended to read as follows:

- Page 1, line 4, after "Children" insert "**and Spouses**".
- Page 1, line 9, delete "or" and insert ",".
- Page 1, line 9, after "mother" insert "**or spouse**".
- Page 3, line 23, delete "or" and insert ",".
- Page 3, line 23, after "mother" insert "**or spouse**".
- Page 3, line 27, delete "or" and insert ",".
- Page 3, line 27, after "mother's" insert "**or spouse's**".

(Reference is to SB 304 as printed January 12, 2005.)

YOUNG R MICHAEL

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SENATE MOTION

Madam President: I move that Senators Alting, Antich-Carr, Bowser, Bray, Breaux, Broden, Clark, Drozda, Ford, Harrison, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson C, Lewis, Long, Lubbers, Miller, Mishler, Mrvan, Nugent, Riegsecker, Simpson, Smith S, Steele, Waltz, Waterman, Weatherwax, Young R and Zakas be added as coauthors of Engrossed Senate Bill 304.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 304, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 2. IC 20-12-21-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) In addition to the duties described in section 5(a) of this chapter, the commission shall do the following:

- (1) Prepare and supervise the issuance of public information concerning all of the commission's programs.
- (2) Prescribe the form and regulate the submission of applications for all of the commission's programs.
- (3) Determine the amounts of grants and scholarships.
- (4) Determine eligibility for grants and scholarships.
- (5) Receive federal funds made available to the commission for awards, grants, and scholarships, and disburse these funds in the manner prescribed by federal law.

(b) In addition to the powers described in section 5(b) of this chapter, the commission may do the following:

- (1) Accept gifts, grants, devises, or bequests for the purpose of providing grants, awards, scholarships, loans, or other forms of financial aid to students attending approved institutions of higher learning.
- (2) Enter into contracts, subject to IC 4-13-2, that the commission determines are necessary to carry out the commission's functions.
- (3) Provide administrative or technical assistance to other governmental or nongovernmental entities if the provision of this assistance will increase the number and value of grants, awards, scholarships, or loans available to students attending approved institutions of higher learning.

(c) When the commission receives an offer of a gift, grant, devise, or bequest under subsection (b)(1), the commission may accept stipulations on the use of the donated funds. In this case, sections 7(d) and 17 of this chapter do not apply. Before accepting a gift, grant, devise, or bequest, the commission shall determine that the purposes for which a donor proposes to provide funds are:

- (1) lawful;
- (2) in the state's best interests; and
- (3) generally consistent with the commission's programs and purposes.

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Whenever the commission agrees to stipulations on the use of donated funds under this subsection, the commission and the donor shall, subject to approval by the state budget agency and the governor or the governor's designee, execute an agreement.

(d) Whenever the commission agrees to provide administrative or technical assistance under subsection (b)(3), the commission and the party to whom the assistance is to be provided shall execute an agreement specifying:

- (1) the assistance that is to be provided; and
- (2) the charges, if any, that are to be assessed by the commission for providing this assistance.

The commission may waive charges for administrative or technical assistance under this subsection if the commission determines that a waiver is in the best interest of the state. Agreements to provide assistance under this subsection must be approved by the budget agency and the governor or the governor's designee.

(e) The commission shall exercise its functions without regard to an applicant's race, creed, sex, color, national origin, or ancestry.

(f) This subsection applies to a person called to active duty after September 11, 2001. As used in this subsection, "active duty" means full-time service in:

- (1) the national guard (as defined in IC 10-16-1-13); or**
- (2) any reserve component of the:**
 - (A) Indiana national guard; or**
 - (B) armed forces;**

that exceeds thirty (30) consecutive days in a calendar year. When determining financial eligibility under subsection (a)(4) for a Frank O'Bannon grant, which includes grants formerly designated as the higher education award and the freedom of choice award, the commission may not consider any salary for service on active duty that is received by a member of the national guard who is called to active duty."

Page 3, after line 29, begin a new paragraph and insert:
"SECTION 4. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 304 as reprinted January 26, 2005.)

ALDERMAN, Chair

Committee Vote: yeas 7, nays 0.



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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 304 be amended to read as follows:

Page 5, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 3. IC 20-12-74-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "active duty" means full-time service in the national guard (as defined in IC 10-16-1-13) that exceeds thirty (30) consecutive days in a calendar year.**

SECTION 4. IC 20-12-74-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Money in the national guard tuition supplement program fund shall be used to provide annual tuition scholarships to scholarship applicants who qualify under this chapter in an amount that is equal to one (1) of the following amounts:

- (1) If the scholarship applicant does not receive other financial assistance specifically designated for tuition and mandatory fees, the amount equal to a full tuition scholarship to attend the state educational institution.
- (2) If the scholarship applicant receives other financial assistance specifically designated for tuition and mandatory fees, the amount:

(A) equal to the balance required to attend the state educational institution; and

(B) not to exceed the amount described in subdivision (1).

(b) Each tuition scholarship awarded under this chapter:

- (1) may be renewed under this chapter for a total scholarship award that does not exceed the equivalent of eight (8) semesters; and

(2) that is renewable under this chapter is subject to other eligibility criteria as established by the commission, **except as provided in section 7.5 of this chapter.**

SECTION 5. IC 20-12-74-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a member of the national guard for a calendar year in which the individual is serving on active duty on January 1.**

(b) Notwithstanding any other state law, the application deadline (as defined in 585 IAC 1-9-1) for the award or renewal of a tuition scholarship under this chapter is waived for a calendar year in which a person is serving on active duty on January 1.

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(c) The application deadline for the award or renewal of a tuition scholarship under this chapter for a person described in subsection (b) is thirty (30) days before the first day of a semester or term of the state educational institution in which the person is enrolled."

Renumber all SECTIONS consecutively.

(Reference is to ESB 304 as printed March 22, 2005.)

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